

Essential Services Commission
Level 37, 2 Lonsdale St
MELBOURNE VIC 3000

Lodged by email: retailenergyreview@esc.vic.gov.au

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Consequential amendments related to the Victorian Default Offer – Draft Decision

The Australian Energy Council (the AEC) welcomes the opportunity to make a submission to the Essential Services Commission (ESC) on the Consequential amendments related to the Victorian Default Offer (VDO) Draft Decision (the Draft Decision).

The AEC is the industry body representing 23 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The ESC makes three draft decisions. The AEC supports the first draft decision, noting that it does not appear to impose any additional obligations on retailers. We are comfortable with Draft Decision Two where the retailer is the designated retailer, but not for customers where the retailer has no obligation to offer the VDO. We oppose Draft Decision Three, and consider if implemented in the manner proposed would lead to an increase in customer confusion.

Draft Decision 1

Clause 70P of the Draft Decision expands the recently developed definition of ‘*deemed best offer*’ to explicitly require retailers to direct customers to the VDO if it is the best offer for their individual circumstances. We are comfortable with this addition, but note that it does not appear to amend the existing obligations created in the October 2018 Final Decision “Building trust through new customer entitlements in the retail energy market”. The AEC considers the existing definition of generally available offer – stated in the new part 2A to be “any plan that is available to any customer in the relevant distribution zone unless it is classified as a restricted plan” – would capture the VDO. If the VDO is the retailers best generally available offer, then the retailer would already be required to display that offer on the bill.

Draft Decision 2

The AEC does not consider that Draft Decision 2 aligns with the obligations under clause 16 of the ERC. Where the retailer is the designated retailer, and the VDO is in fact the best offer for that customer, we agree that the customer should be informed of the VDO as part of the clear advice entitlement. However, if the retailer is not designated, there can be no obligation to offer the VDO to the customer. Given this, we suggest the drafting of 70P be amended to only require retailers to inform customers of the applicable VDO for which they are entitled.

Draft Decision 3

The AEC opposes Draft Decision 3 at this time. Unlike the other two draft decisions, Draft Decision 3 is not consequential to the implementation of the VDO. While some stakeholders might consider it beneficial, it is

inappropriate to be imposing non-essential obligations on retailers at such a late juncture, without proper merits assessment.

Process notwithstanding, the AEC has concerns about the practical implications of this decision on customers. Unlike Draft Decision 2, the retailer would be expected under this obligation to advise the customer of the availability of the VDO when the VDO would not be beneficial for that customer based on the regulated definition of *deemed best offer*. We do not agree with the views of some customer advocates that there will be customers who are better off paying more on the VDO than signing up to a cheaper market offer.

For this reason, advising customers that there is an alternative “fair price” that is available (but more expensive) will only serve to increase distrust of retailers. While we understand the Government’s desire to ensure customers are aware of the presence of the VDO, including it in the clear advice entitlement – an obligation designed to be tailored to provide the information a customer needs to know to make an informed decision – does not seem beneficial. The AEC expects that there will be adequate information about the existence of the VDO outside of confusing customers in the clear advice entitlement.

We recommend the ESC revisit the merits of Draft Decision 3 at a future time where a more appropriate consultation timeframe is possible.

For any questions about our submission please contact me by email at ben.barnes@energycouncil.com.au or on (03) 9205 3115.

Yours sincerely,



Ben Barnes
Director, Retail Policy
Australian Energy Council